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PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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September 21, 1998

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SEP 23 1998

Federal Communications Commission
Office of Secretary

Ms. Magalie Salas
Secretary
The Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

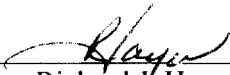
RE: Formal Comments of
Buxton Radio Group
Buxton, North Carolina (Channel 268A)
MM Docket No. 98-145 (RM-9330)

Dear Ms. Salas:

Transmitted herewith, on behalf of Buxton Radio Group, through counsel, is an original and six (6) copies of its "Formal Comments," in the FM Rule Making Proceeding for Channel 268A at Buxton, North Carolina.

Should any questions arise concerning this matter, kindly contact the undersigned, directly.

Respectfully submitted,

By: 
Richard J. Hayes, Jr., Esquire
Counsel to: Buxton Radio Group

RJH:tb
Enclosures

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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**Federal Communications Commission
Office of Secretary**

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| In the Matter of: |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MM Docket No. 98-145 |
| Table of Allotments, |) | RM-9330 |
| FM Broadcast Stations. |) | |
| Buxton, North Carolina |) | |
| Channel 268A |) | |

To: Chief, Allocations Branch:

**FORMAL COMMENTS
OF BUXTON RADIO GROUP**

Comes Now, Buxton Radio Group, through counsel, with Formal Comments in the above-captioned Rule Making Proceeding.

On August 7, 1998, the Federal Communications Commission released a "Notice of Proposed Rule Making" which acknowledged that Buxton Radio Group requested the allotment of Channel 268A to Buxton, North Carolina as that community's first local aural service. The NPRM stated that petitioner's proposal warranted consideration if it is determined that Buxton is a community for allotment purposes. Accordingly, the Notice directed the petitioner to present the Commission with sufficient information to demonstrate that Buxton is a community for allotment purposes. The following information will assist the Commission in reaching the conclusion that Buxton, North Carolina is a "community" for allotment purposes.

Buxton, North Carolina is a distinct, identifiable town. It is located on Hatteras Island, Dare County, North Carolina. From an economic perspective, there are one hundred thirty two (132) businesses which identify solely with the town of Buxton according to the Dare County Tax Assessor's Office. A large majority of these businesses are small businesses which rely upon the residents of Buxton for their existence and profit. These small businesses include companies such as supermarkets, hotels, motels, gift shops, restaurants, plumbers, electricians, attorneys, artists, hardware stores, lumber yards, concrete and gravel companies, fishing cooperatives, daycare centers and furniture makers. A U.S. Coast Guard Base for Hatteras Island is also located in Buxton. Economically, Buxton is a tourist and fishing community and a number of its businesses are tourist related but are, nevertheless, significant businesses which sustain the local population.

Buxton is an actual town on Hatteras Island. By contrast, Hatteras Island is an identifiable *place* on the map but Hatteras Island has no indicia of a town or of a community. Socially, there is a significant distinction among the residents regarding the towns in which they live. No one claims to be a resident of Hatteras Island, for instance. One would be expected to say that he/she is a resident of Buxton or Frisco. Each town is distinct with its own local problems and concerns. Each town is also fairly isolated from other towns on the Island.

Buxton is listed in the 1998 Rand McNally Commercial Atlas and is attributed with a full-time population of 1,300 persons and a seasonal (approximately 7 months per year) population which grows to several thousand persons. It is certainly a lot more than a mere geographical location. It is home to hundreds of people! According to the Dare County Tax Assessor's Office, there are 491 single-family homes in Buxton, North Carolina.

It should be noted that Dare County keeps separate records for the town of Buxton with regard to population, housing, businesses and community services; it is a distinct community. Buxton is a "town" but it is not separately incorporated. No town or village on Hatteras Island is separately incorporated according to the Dare County Tax Office. Buxton, however, is one of the two largest towns in the region. Its commercial and population base continue to grow and there is absolutely no indication that Buxton will be incorporated separately or absorbed into any other town.

Buxton is isolated from other towns on Hatteras Island. Avon is approximately 15 miles north of Buxton and the two towns are separated by 15 miles of uninhabited beach and wetland areas. The town south of Buxton is Frisco. Frisco is approximately 15 miles away and there is nothing between the two towns, at all, except for National Park Service lands, the Buxton Woods Preserve, wetlands and beaches. Buxton is a distinct, separate town. Its physical location is such that the people who live there, work there and own businesses there regard it as a distinct community which survives on its own without social, cultural or private economic interdependence on neighboring towns. Buxton is, most assuredly, not part of any other town or community.

There is no local media on Hatteras Island although there is one radio station licensed to the Village of Hatteras, some 25 highway miles south of Buxton. Hatteras, a village on Hatteras Island, is not separately incorporated, either. The Hatteras Village radio station rebroadcasts all of the programming from its commonly

owned Nags Head, North Carolina radio station, a community some 75 miles north of Buxton with a transmitter in Englehard, a town on the mainland. Consequently, the residents of Buxton do not have any medium to turn to in times of natural disaster. This summer, as the Commission is aware, hurricane Bonnie brushed the Outer Banks of North Carolina and all of Buxton was under mandatory evacuation. Thousands of people made their way up the highway to safer ground and had no local information to guide them through the evacuation until they arrived in Nags Head, Kitty Hawk or Manteo. During storms, local conditions in Buxton can become quite treacherous and the media to the north might never learn of the problems until much, much later. Simply put, the stations in the north serve the needs of Nags Head and Kitty Hawk and Manteo, communities more than sixty five miles distant from Buxton. Buxton is as distant from Nags Head as Washington is distant from Colonial Beach, Virginia! Undoubtedly, Buxton's residents and visitors need their own local medium of mass communications on a daily basis; not just during times of emergency or natural disaster. If one studies the map, it is easy to see how exposed Buxton is to the natural elements. Buxton is the town on the tip of Hatteras Island which extends furthest out to sea!


Buxton also enjoys separate local services such as its own Post Office and zip code (27920). Other towns on Hatteras Island have their own Post Offices. Buxton has its own fire department. Similarly, other towns have their own fire departments on Hatteras Island. The Water Department is located in Buxton. The Lighthouse Assembly of God Church, Our Lady of the Seas Catholic Church, Buxton United Methodist Church and the Church of Living Water are all located in Buxton. The Hatteras Island School is located in Buxton. It is a public school with classes for students in grades K through 12. Police services are provided by the Sheriff's Department of Dare County.

To summarize, Buxton is a distinct community in the real sense as well as for allotment purposes. It has social, economic and cultural indicia which identify solely with Buxton. As an unincorporated town within Dare County, it relies on the county for its government administration although it sends delegates to the county seat in distant Manteo to represent the local residents. Buxton is geographically isolated from other towns on Hatteras Island requiring the residents of Buxton to come together as a community for social, cultural and economic purposes. No town or village on Hatteras Island is incorporated and this, together with the fact that Buxton is not a census designated place, should not operate to deprive the 1,300 full-time residents and 132 businesses of a first

local aural service. Buxton may be small but its residents have needs which can be better addressed by a local medium of mass communications. At present, there is no local medium of any kind. Buxton's growth, character and future as a town depends upon its ability to communicate with its own residents. The safety of Buxton's residents can be greatly enhanced with a local broadcast outlet. The Commission has awarded towns of much smaller size with local broadcast allotments. Buxton merely wants the opportunity to continue to grow and, to do so, must have a local broadcast outlet as it moves into the next millenium.

For the reasons stated above, Buxton Radio Group respectfully requests that the Federal Communications Commission acknowledge that Buxton is a "community" for allotment purposes and that it allot channel 268A to Buxton, North Carolina, as requested by the petitioner. Buxton Radio group hereby restates its interest in the allotment and advises that should the FCC allot channel 268A to Buxton, North Carolina. it will submit an application for the new, local broadcast outlet. If it is awarded a construction permit for the facility, it will promptly commence construction of the station.

Respectfully submitted,
BUXTON RADIO GROUP

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Its Attorney

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